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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,170	02/01/2000	Laurent Ferenczi	S.4369	9405

466 7590 09/21/2006

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EXAMINER

O'CONNOR, GERALD J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/528,170	Applicant(s) Ferenczi et al.	
	Examiner O'Connor	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 28, 2006 (RCE w/Amdt).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-28 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 1, 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 28, 2006 has been entered.

Preliminary Remarks

2. This Office action responds to the amendment and arguments filed by applicant on June 28, 2006 in reply to the previous Office action on the merits, mailed March 1, 2006.

3. The cancellation of claims 1-24 by applicant in the reply filed on June 28, 2006 is hereby acknowledged.

4. The addition of claims 25-28 by applicant in the reply filed on June 28, 2006 is hereby acknowledged.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Zekich (US 4,586,441).

Zekich discloses an installation 10, comprising: a delimited storage zone 130, said storage zone 130 having a first access 112 that provides direct and simultaneous access to a plurality of locations (inherently) within the storage zone 130, and a first door 116 and a first lock 114 in said first access 112; a reader 140 for reading an identification medium as a person passes through said first access 112; a delimited access bay 30 providing access to said first access 112, said access bay 30 being adjacent to said storage zone 130 and having a second access 12, and a second door 16 and a second lock 14 in said second access 12; and, an

authorization device 15 receiving information from a user desiring access to said storage zone 130 and determining whether the user is authorized to enter said storage zone, said authorization device 15 operating said first 114 and second 14 locks (see, for example, Fig. 6) and controlling said first 114 and second 14 locks so that said first 116 and second doors 16 are not open simultaneously (see, for example, column 2, line 7, as well as claim 18).

Zekich does not explicitly disclose that each location of the plurality of locations within the storage zone is *for* storing a cylindrical container that has an identification medium, but this recitation has been deemed merely intended usage of the invention, hence, afforded little patentable weight. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is *capable* of performing the intended use, then it meets the claim. See MPEP §2114.

Regarding claim 26, the installation of Zekich further comprises in said access bay 30 a first device 100 for dispensing the identification medium, wherein said authorization device 15 controls said first device 100 to dispense the identification medium only when said first 116 and second 16 doors are closed.

Regarding claim 27, the installation of Zekich further comprises a terminal 94 that can determine a location of a container in the installation and of an identity of a user who moved the container to the respective location (for example, the container being carried by the user/person).

Regarding claim 28, in the installation of Zekich, the terminal 94 determines the location of the container based on an installation-wide positioning system and records movement of the container over time (see, for example, column 4, lines 56-60).

Response to Arguments

7. Applicant's arguments filed June 28, 2006 have been fully considered but they are not deemed persuasive.

8. The arguments regarding the previous prior art rejections have been considered, but have been rendered moot by applicant's amendment, and the consequent new grounds of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to the disclosure.

10. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Alexander Kalinowski, can be reached at (571) 272-6771.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

September 15, 2006

 9/15/06

Gerald J. O'Connor

Primary Examiner

Group Art Unit 3627